

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN DIANE RICE**, on February 10, 2005 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Ron Stoker, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Robyn Driscoll (D)
Rep. George Everett (R)
Rep. Gail Gutsche (D)
Rep. Roger Koopman (R)
Rep. Michael Lange (R)
Rep. Tom McGillvray (R)
Rep. Mark E. Noennig (R)
Rep. Art Noonan (D)
Rep. Jon Sonju (R)
Rep. John Ward (R)
Rep. Bill Wilson (D)
Rep. Jeanne Windham (D)

Members Excused: Rep. Christopher Harris (D)
Rep. John Parker (D)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 562, 2/3/2005
Executive Action: HB 476-Do Pass As Amended;
HB 510-Tabled

HEARING ON HB 562**Sponsor:** REP. EVE FRANKLIN, HD 24, GREAT FALLS**Opening Statement by Sponsor:**

REP. EVE FRANKLIN (D), HD 24, opened the hearing on **HB 562**, Clarify immunity of comprehensive health association members. The REPRESENTATIVE advised the committee that she brought this bill on behalf of the Auditor's office. **REP. FRANKLIN** explained the Montana Comprehensive Health Association (MCHA) to committee members. She stated that this is the insurer of the last resort; it is for people who are unable to purchase health insurance through any other means. Usually, these people have pre-existing conditions and cannot be covered under any other plan.

REP. FRANKLIN stated that this bill would provide a level of immunity for the volunteer board of directors members.

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Proponents' Testimony:

Erin McGowan-Fincham, Auditor's Office, rose in support of HB 562. **Ms. Fincham** explained the insurance plan to the members of the committee. There are two plans with six different options offered; it is a quasi-governmental agency formed in 1985 and is paid for by premiums of the members and the assessment of the disability insurers doing business in Montana.

There is some state funding that goes toward the low-income portion of the MCHA: between \$550,000-\$700,000 that is allocated from the Tobacco Settlement Fund.

EXHIBIT (juh33a01)

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Tanya Ask, Blue Cross Blue Shield of Montana (BCBS), Chairman of the Board-MCHA, rose in strong support of HB 562.

Frank Cote, America's Health Insurance Plans, rose in support as an insurer for the MCHA and as a participant of the plan himself.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MCGILLVRAY questioned Ms. Ask referring to Line 15 to explain why the immunity should extend to the insurers; i.e., BCBS. **Ms. Ask** stated that the members of the board are designated by statute and a number of the members are employees of the largest insurance companies in Montana such as BCBS. She stated that the immunity extends only to the board members who are acting on behalf of MCHA.

The REPRESENTATIVE continued to ask questions of Ms. Ask regarding the liability issue. He then referred the questions to REP. NOENNIG.

REP. NOENNIG requested that Ms. Ask explain further. **Ms. Ask** continued with her explanation. All insurance companies that write insurance in Montana are required to be members of the MCHA and as members they are also required to provide some board members to the MCHA. The MCHA provides the insurance; not the insurance carriers. She stated that BCBS is the administrator of the plan only, with MCHA being self-standing and self-contained. Someone could still file a lawsuit against BCBS as the administrator of the plan, not as the insurer.

REP. NOENNIG continued with questions for Ms. McGowan-Fincham. He was interested in Line 19-20; his impression was that the only liability would be for contractual problems and would limit liability for exemplary and punitive damages. **Ms. McGowan-Fincham** explained the grievance procedures that are allowable with MCHA. She then referred to Ms. Roy to provide a further explanation.

Carol Roy, Bureau Chief of Policy Holder Services-Auditor's Office, stated for the REPRESENTATIVE that before some punitive or exemplary damages can be awarded there needs to be money in the first case, i.e.; "deep pockets." The MCHA does not have that kind of money; it only has premiums and a small amount of funding from the state and the assessments paid by the insurance companies.

EXHIBIT (juh33a02)

REP. RICE queried Ms. Ask to describe an example of a reason why someone would sue MCHA. **Ms. Ask** stated that MCHA may receive a grievance from a client for nonpayment of claims. She then explained the grievance committee process and that a committee of the board itself would make a final decision for those denials of payment.

REP. RICE was then interested in the deductible information within the MCHA insurance. **Ms. Ask** informed the committee that for example, last year 3,600 individuals who are covered by MCHA, paid in excess of \$13 million for their coverage. Those same individuals had paid claims to service providers in excess of \$19 million. The leftover balance is paid by the assessments by the insurance companies, a federal grant and the state grant as mentioned before.

REP. CLARK continued speaking with Ms. Ask regarding whether or not there are other states that have a similar insurance program, etc. **Ms. Ask** replied that 47 other states have plans that are similar; however, Montana was one of the pioneers in the early 1980's. Further, in 2001, the Montana Legislature launched the program for the premium subsidies and in so doing, set a model that was adopted federally by the Trade Adjustment Assistance Act to provide additional federal monies.

The REPRESENTATIVE was interested in how many other states have this immunity provision; Ms. Ask will provide the information for the committee.

REP. NOENNIG was interested in the denial of coverage provision. **Ms. Ask** explained that the only requirements for enrollment in the MCHA are that the person must be a resident of Montana and unable to receive insurance from any other insurance plan. She further explained the protocol for any mistakes that may be made by the plan regarding enrollment; the mistake would be rectified and the participant re-enrolled.

REP. MCGILLVRAY questioned Ms. Ask regarding whether or not enrollment is increasing. **Ms. Ask** stated that last year alone, the plan increased by more than 600 individuals. The REPRESENTATIVE asked, "Why?" She replied that the premium assistance program was adopted and with insurance companies leaving the state; this is the "fallback" measure. **Ms. Ask** did say that two major insurance carriers have left Montana in the recent past.

REP. EVERETT wanted to know about the "poverty limit" and how it related to the premiums paid. **Ms. Ask** gave the example of a family of two at the poverty level of 150% would have an income of less than \$19,000. A premium for an individual under 40 with an income under \$19,000 would pay a premium of \$161 monthly.

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Closing by Sponsor:

REP. FRANKLIN closed the hearing on HB 562 and said that she would welcome any suggestions.

{Tape: 1; Side: B; Approx. Time Counter: 106 - 180}

EXECUTIVE ACTION ON HB 476

Motion: REP. STOKER moved that HB 476 DO PASS.

Motion: REP. KOOPMAN moved that HB 476 BE AMENDED with AMENDMENT 476-01.

EXHIBIT(juh33a03)

REP. KOOPMAN explained the amendment; it would make the fee collected to be a voluntary fee.

Vote: Motion failed by voice vote.

Mr. MacMaster explained to the committee that there is a drafting error on Page 1, Line 16, 17, 19, 20; strike, "Board of Crime Control" and have "Clerk of District Court" inserted.

Motion/Vote: REP. CLARK moved that HB 476 BE AMENDED on Page 1, Line 16. Motion carried by voice vote.

Motion: REP. STOKER moved that HB 476 DO PASS AS AMENDED.

Motion/Vote: REP. SONJU moved that HB 476 BE AMENDED with a CONCEPTUAL AMENDMENT to CHANGE THE FEE TO \$13. Motion carried by voice vote.

Vote: Motion HB 476 DO PASS AS AMENDED carried 11-7 by roll call vote with REP. EVERETT, REP. KOOPMAN, REP. LANGE, REP. RICE, REP. SONJU, REP. STOKER, and REP. WARD voting no. (REPS. GUTSCHE (who had left the room), HARRIS, PARKER voted by proxy vote.)

{Tape: 1; Side: B; Approx. Time Counter: 180 - 500}

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EXECUTIVE ACTION ON HB 510

Motion: REP. CLARK moved that HB 510 DO PASS.

Motion: REP. CLARK moved that HB 510 BE AMENDED on Page 2, Line 16 to strike out "steps across" and insert "crosses over."

Discussion:

After discussion by the committee members, without objection **REP. CLARK WITHDREW HIS AMENDMENT.**

Motion: REP. CLARK moved that HB 510 BE AMENDED by deleting "not" before word, "ENTER."

Substitute Motion/Vote: REP. LANGE made a substitute motion that HB 510 BE TABLED. Substitute motion carried 10-8 by roll call vote with REP. BECKER, REP. CLARK, REP. DRISCOLL, REP. GUTSCHE, REP. HARRIS, REP. NOONAN, REP. PARKER, and REP. WILSON voting no. (REPS. HARRIS, PARKER voted by proxy vote.)
{Tape: 2; Side: A; Approx. Time Counter: 219 - 500}
{Tape: 2; Side: B; Approx. Time Counter: 0 - 100}

ADJOURNMENT

Adjournment: 9:37 A.M.

REP. DIANE RICE, Chairman

PAM SCHINDLER, Secretary

DR/ps

Additional Exhibits:

EXHIBIT ([juh33aad0.PDF](#))